

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to child-placing agencies  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 108, “Licensing and Regulation of Child-Placing Agencies,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 237.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 237.3.

*Purpose and Summary*

The rules in Chapter 108 were reviewed as part of the Department’s five-year rules review. This proposed rule making establishes licensing procedures for all child-placing agencies.

The rules review resulted in the following proposed changes:

- Remove outdated form names.
- Add form numbers for documents that must be submitted by a requested entity when submitting a request for a record check evaluation.
- Clarify that record check evaluations for child-placing agency staff will include a review of an individual’s founded dependent adult abuse report in addition to the individual’s criminal conviction record or a founded child abuse report.
- Add that the Department will consider the likelihood that a person will commit a crime or founded abuse again when conducting a record check evaluation in accordance with the Iowa Code.
- Provide cross-references to rules regarding notices and appeal rights.
- Modify qualifications for caseworkers.
- Clarify when foster parents shall obtain child abuse mandatory reporter training.
- Add a requirement that child-placing agencies shall provide hygiene items for youth.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule ~~441—108.1(238)~~, definition of “Child,” as follows:

“Child” ~~shall mean~~ means the same as defined by Iowa Code section 234.1.

ITEM 2. Amend subrule 108.2(2) as follows:

~~108.2(2) Application. An agency or person applying for a license shall complete Form 470-0723, Application for License or Certificate of Approval. The application shall be completed and signed by the administrator or the appropriate officer and submitted to the department.~~

*a. to c.* No change.

ITEM 3. Amend subrule 108.2(5) as follows:

~~108.2(5) Certificate of license. The department shall issue or renew Form 470-3623, Certificate of License, every three years, without cost, to any child-placing agency which meets the minimum requirements applicable to child-placing agencies as defined by Iowa Code chapter 238 and this chapter. The license shall be posted in a conspicuous place on the licensed premises.~~

ITEM 4. Amend subrules 108.2(10) and 108.2(11) as follows:

~~108.2(10) Method and content of notice. The notice of denial, revocation, or suspension shall be sent by restricted certified mail and shall include the following: pursuant to 441—Chapter 16.~~

~~*a.*—A specific description of the condition requiring the suspension, denial or revocation.~~

~~*b.*—The specific laws or rules violated.~~

~~*c.*—The effective date of denial, revocation or suspension.~~

~~108.2(11) Right to appeal. Any agency which disagrees with the department’s licensing decision may appeal to the department in accordance with 441—Chapter 7. The appeal shall be filed within 30 days of receipt on or before the thirtieth day following the date of notice of the licensing decision.~~

ITEM 5. Amend subrule 108.4(1) as follows:

~~108.4(1) Qualifications for all staff. A child-placing agency employee or volunteer shall be emotionally stable and have the experience and education to perform the duties assigned. The agency shall not employ any person or give any person direct volunteer responsibility for a child or access to a child when the child is alone if that person has been convicted of a crime involving the mistreatment or exploitation of a child or dependent adult. The agency shall not employ any person or give any person direct volunteer responsibility for a child or access to a child when the child is alone if that person has a record of a criminal conviction or founded child or dependent adult abuse report unless the department~~

has evaluated the crime or abuse and determined that the crime or abuse does not merit prohibition of volunteering or employment. If the child-placing agency is out of state, the agency shall complete that state's child or dependent adult abuse record check and a criminal record check.

a. If a record of criminal conviction or founded child or dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Iowa's Record Check Evaluation form Form 470-2310.

b. In its evaluation, the department shall consider:

(1) to (3) No change.

(4) The degree of rehabilitation; and

(5) The likelihood that the person will commit the crime or founded abuse again; and

(6) The number of crimes or founded abuses committed by the person involved.

c. The agency shall maintain the following information with respect to each staff person:

(1) No change.

(2) A written, signed and dated statement furnished by the staff person which discloses any founded reports of child or dependent adult abuse on the person that may exist prior to the staff person's providing any care or services to or on behalf of the facility.

(3) Documentation that a child or dependent adult abuse record check of the staff person has been completed with the Iowa central abuse registry for any founded reports of child or dependent adult abuse prior to the staff person's providing any care or services directly or indirectly to children under the care of the agency. A copy of the department's evaluation of this child or dependent adult abuse record check shall be kept in the staff record.

ITEM 6. Amend paragraph **108.4(4)“c”** as follows:

c. Graduation from an accredited four-year college or university with a bachelor's degree in a human service field related to social work, psychology, or a related behavioral science or in education and the equivalent of ~~two years~~ one year of full-time experience in social work or experience in the delivery of human services in a public or private agency.

ITEM 7. Amend paragraph **108.6(5)“d”** as follows:

d. Record of founded child or dependent adult abuse reports and the department's evaluation of same.

ITEM 8. Rescind paragraph **108.7(1)“e.”**

ITEM 9. Amend paragraph **108.7(12)“b”** as follows:

b. A child shall have a physical examination at least annually. This shall be performed by a licensed physician, ~~physician's~~ physician assistant or licensed nurse practitioner.

ITEM 10. Amend paragraph **108.8(1)“a”** as follows:

a. Availability of applications. The agency may provide Form 470-0689, ~~Foster Family Home License Application~~, to anyone requesting to be licensed.

ITEM 11. Amend subparagraph **108.8(1)“c”(13)** as follows:

(13) Record checks. The licensed child-placing agency shall submit record checks for each applicant and for anyone who is 14 years of age or older living in the home of the applicant to determine whether they have any founded child or dependent adult abuse reports or criminal convictions or have been placed on the sex offender registry. The licensed child-placing agency shall use Form 470-0643, ~~Request for Child Abuse Information~~, and Form 595-1396, ~~DHS Criminal History Record Check, Form B~~, for this purpose. ~~Each person subject to record checks shall also be fingerprinted for a national criminal history check.~~ The department's contractor for the recruitment and retention of resource families shall assist applicants in completing required record checks, including fingerprinting. Any criminal or abuse records discovered shall be evaluated according to the procedures in rule 441—113.13(237).

ITEM 12. Amend subrule 108.8(6) as follows:

**108.8(6) Foster family training.** The agency shall ensure that each foster home recommended for foster family license has complied with the training requirements in rule 441—113.8(237).

~~Within six months of Prior to~~ licensure and every three years thereafter, each foster parent shall obtain mandatory reporter training relating to identification and reporting of child abuse.

ITEM 13. Rescind subparagraph **108.9(1)“a”(8)**.

ITEM 14. Amend paragraph **108.9(4)“d”** as follows:

*d. Record checks.* The licensed child-placing agency shall perform record checks for each applicant and for the other persons living in the home of the applicant as follows:

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using ~~the Request for Child Abuse Information form~~ Form 470-0643;

2. By the Iowa division of criminal investigation, using ~~the DHS Criminal History Record Check Form B 595-1396~~;

3. No change.

4. On the child or dependent adult abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and

5. No change.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using ~~the Request for Child Abuse Information form~~ Form 470-0643;

2. By the Iowa division of criminal investigation, using ~~the DHS Criminal History Record Check Form B 595-1396~~; and

3. No change.

(3) Out-of-state child and dependent adult abuse checks and national criminal history checks may be completed on any adult in the home of the applicant if the certified adoption investigator has reason to do so.

(4) and (5) No change.

ITEM 15. Amend paragraph **108.9(4)“e”** as follows:

*e. Evaluation of record.* If the applicant or anyone living in the home has record of founded child or dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the applicant shall not be approved to adopt unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(1) No change.

(2) The person with the criminal conviction or founded child or dependent adult abuse report shall complete and return ~~the Record Check Evaluation form~~ Form 470-2310 within ~~40~~ ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame may result in a written denial of approval for adoption.

(3) If the applicant, or anyone living in the home of the applicant, has been convicted of a simple misdemeanor or a serious misdemeanor that occurred five or more years prior to application, the evaluation and decision may be made by the ~~licensed child-placing agency~~ department's centralized service area. The ~~licensed child-placing agency~~ department's centralized service area shall notify the applicant of the results of the evaluation.

(4) If the applicant, or any person living in the home of the applicant, has a founded child or dependent adult abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, the licensed child-placing agency shall initially conduct the evaluation.

1. If the licensed child-placing agency determines that the abuse or crime does warrant prohibition of approval, the licensed child-placing agency shall notify the applicant of the results of the evaluation in writing. The notice shall contain information on appeal rights pursuant to 441—Chapter 7.

2. If the child-placing agency determines that the applicant should be approved despite the abuse or criminal conviction, the agency shall provide copies of ~~the Record Check Evaluation form~~ Form 470-2310 and the written notice to the applicant to the Administrator, Division of Adult, Children and Family Services, Department of Human Services, 1305 East Walnut Street, Des Moines, Iowa

50319-0114. Within 30 days, the administrator shall determine whether the abuse or crime merits prohibition of approval and shall notify the child-placing agency in writing of that decision.

ITEM 16. Amend subparagraph **108.9(4)“g”(4)** as follows:

(4) The applicant or any person residing in the home has a record of founded child or dependent adult abuse, unless an evaluation of the founded child or dependent adult abuse has been made by the department which concluded that the founded child or dependent adult abuse does not merit prohibition of approval.

ITEM 17. Amend subparagraph **108.9(4)“h”(1)** as follows:

(1) The child and dependent adult abuse and criminal history record checks, except for the national criminal history check, shall be repeated. Any abuses or convictions of crimes since the last record check shall be evaluated using the same process.

ITEM 18. Amend subparagraph **108.9(4)“i”(2)** as follows:

(2) When a person aged 14 or older moves into the home, the agency shall perform checks on the Iowa central abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction or founded child or dependent adult abuse report or is on the sex offender registry.

ITEM 19. Amend paragraph **108.9(6)“a”** as follows:

a. *International adoptions preplacement investigation.* Preplacement investigations for the purpose of international adoptions shall meet the requirements of the United States ~~Citizen~~ Citizenship and Immigration Service Services.

ITEM 20. Amend subrule 108.9(9) as follows:

**108.9(9) Right to appeal.** An adoptive applicant or an adoptive family may appeal an adverse decision made by a licensed agency pursuant to 441—Chapter 7. The appeal shall be filed with the department within 30 days of the notice of decision to the applicant or family by the licensed agency.

ITEM 21. Amend paragraph **108.10(3)“c”** as follows:

c. Supervision to assist the child in developing the needed structure to live in this setting and in locating and using other needed services. Supervision shall include guidance, oversight, and behavior monitoring.

(1) to (3) No change.

(4) The agency shall ~~provide a means for children in a scattered site setting to contact agency personnel 24 hours a day, seven days a week~~ provide a means for children in a scattered site setting to contact agency personnel 24 hours a day, seven days a week ~~personal care items for youth, and these items shall reflect the individual, cultural, racial, and ethnic needs of the youth living in the agency’s program.~~

(5) The agency shall ~~ensure that each child has access to and is receiving necessary medical care~~ provide a means for children in a scattered site setting to contact agency personnel 24 hours per day, seven days per week.

(6) The agency shall ensure that each child has access to and is receiving necessary medical care.